

1 DEMAS YAN
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5 plaintiff in pro per

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10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 In re: Tony Fu,

14 Debtor.

15
16 Thai Ming Chiu, Demas Yan, Legal
17 Recovery, LLC,
18 Plaintiffs,
19 v.
20 Tony Fu,
21 Defendant.

22 Bankruptcy Case No.: 17-41205 CN
23 Chapter 7 Trustee: Marlene G. Weinstein

24 AP # 17-04056

25 MOTION TO SUBSTITUTE PLAINTIFF

26 Date: 9/10/18

27 Time: 10 am

28 Ctrm: 215

Judge: Charles Novak

Place: 1300 Clay Street, Oakland, Ca. 94612

15 BACKGROUND

16
17 This adversary proceeding was filed on 8/2/17 objecting to discharge based on § 523 (by plaintiff
18 YAN) and § 727 (by Plaintiff CHIU and Legal Recovery, LLC).

19
20 Plaintiff CHIU was assignee of a judgment entered in San Francisco Superior Court case no.
21 CGC-00-311712 against debtor by judgment creditor FLORENCE FUNG (FUNG).

22
23 FUNG has assigned the judgment to YAN and desires that YAN substitute in place of CHIU.
24 See YAN Dec., Ex. A at par. 6 (Declaration of FUNG).

SUBSTITUTION WOULD BE OF BENEFIT TO CREDITORS

Rule 25(c), make applicable by FRBP 7025, provides that if an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party.

YAN is already prosecuting the § 523 claim. He has in-depth knowledge of the facts of the case and the ability to prosecute the § 727 claim as well. This will increase efficiency and lower the costs for all parties.

YAN has no ulterior motive in substituting into the § 727 claim other than for the legitimate reason of seeking non-discharge on the basis of factual support of bankruptcy fraud by debtor. The allegations of fraud do not come only from plaintiffs, but also from third parties. See YAN dec., Ex. A at pars. 4-5, and Ex. B.

Respectfully submitted,

Dated: 8/23/18

By: /s/DEMAS YAN